IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7729 OF 2007

Dayanand Girija Punja
(M/s.Hotel Pancham Lodge) ....Petitioner
Versus
The Sub-Divisional Magistrate
Thane and Anr. .....Respondents.

Veena Thadani for the petitioners.

Mr.A.R.Patne, AGP for respondents.

Coram: S.C.Dharmadhikari, J.

20.11.2007

P.C.:

1. The petition is directed against an order cancelling the petitioner's licence. The grievance of the petitioner is that no useful purpose will be served by approaching the appellate authority, because the appellate authority is likely to be influenced by the observations made by the Sub-Divisional Magistrate, Division-Thane and

approaching the appellate authority therefore would be a mere formality.

2. It is undisputed before me that the order passed is cancelling the licence of the petitioner, which is more particularly described as public entertainment licence. Against an order of cancellation of licence, an appeal is indeed provided. The appeal lies to the District Magistrate/Collector of the district. A high powered body is designated as an appellate authority. Such an authority is expected to apply its mind independently and not defeat the right of appeal conferred by the rules.

3. In my view, once the legislature has chosen a high powered official, there need not be any apprehension in the mind of the petitioner.

4. In such circumstances, the appropriate course would be to direct the petitioner to avail of the alternate remedy of appeal. Ms.Thadani, upon

taking instructions states that an appeal would be filed within a period of 15 days from today. Upon the appeal being filed and duly lodged in the appellate authority's office, the appellate authority to endeavour and dispose off the same as expeditiously as possible and in any event within a period of six weeks from the date of the first appearance of parties. The appellate authority to consider the appeal and pass appropriate orders after hearing the petitioner so also without being influenced by any observations in the order under challenge before me.

(S.C.Dharmadhikari,J)